

REMARKS

Claims 1-35 are pending in the application. Claims 1, 34 and 35 are the independent claims.

Requirement for Information Under 37 C.F.R. 1.105

The Office has issued a Rule 105 requirement asking Applicant to provide copies of documents or materials, if available, that are related to the practice of negotiation of block trades, by specialists, in a system without automation, that involves the placement and execution of an order at a predetermined distance and direction away from market value. Office action, sec. 3, 2d para. The Office action states that mention of this practice was indicated in remarks by Professor James Angel during the Examiner interview held on October 26, 2004 at the Patent Office.

Neither Applicant nor Professor Angel is aware of any such practice as described by the Office in this requirement, and is therefore unable to provide copies of any documents or materials pertaining to such a practice.

The Office may have misunderstood Professor Angel's comments at the Examiner interview regarding the distinctions between specialists and embodiments of the claimed invention. The NYSE specialist, for example, many times negotiates trades on the floor at prices based on a current market value. For instance, a buyer and seller may "cross" a trade at the mid-point of the bid-ask spread; this is a current market price, not a distance away from market value as reflected in the present invention. A good description of what happens at the NYSE is Benveniste, Marcus, and Wilhelm's classic article in the Journal of Financial Economics, which is submitted on even date in an Information Disclosure Statement in response to this requirement.

Alternatively, in some private equity financing agreements there is a provision that forces companies to issue new stock and sell the newly issued stock at a discount to market value (e.g., market value determined over a several day prior time period) in order to pay off dollar balances incurred by dollar withdrawals from an established equity line of credit. When stock is issued to the creditor at a discount to market value, the purpose of the issuance is to fulfill a prior

obligation. The creditor is simply collecting a debt from a debtor - instead of cash, securities are tendered as payment.

This situation is demonstrated on page 13 of the Mobilepro reference (also submitted on even date), in which Mobilepro enters into a financing arrangement in which, at the discretion of the company, it can draw a predetermined fixed amount of money out of an equity line (in this case up to \$450,000 in a given 30 day period) and must pay a 3% fee for every dollar drawn out. The company pays back the money drawn out of the equity line by registering new stock with the SEC, and issuing the new stock to the provider of the equity line at a 9% discount to an average market price of the stock over a predetermined number of trading days.

The private financing arrangement described in Mobilepro is unrelated to the open market of the present invention, in which a second party accepts, at a particular price, a first party's order to trade a financial instrument at a predetermined distance and direction away from market value, a determination of an updated market value of the financial instrument is made, and the order is completed only if the accepted price is the predetermined distance and direction away from the updated market value, as claimed.

CONCLUSION

It is respectfully submitted that, in view of the foregoing remarks, the application is in clear condition for allowance. Issuance of a Notice of Allowance is earnestly solicited.


The Office is authorized to charge the one-month small entity extension of time fee of \$60.00 to Kenyon & Kenyon's Deposit Account No. 11-0600. A copy of this page is provided for this purpose.

Although not believed necessary, the Office is hereby authorized to charge any additional fees required under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600.

The Examiner is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,

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